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12 Attorneys for Plaintiff
13 DNA GENOTEK INC.

14 IN THE UNITED STATES DISTRICT COURT

15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

16 DNA GENOTEK INC., a Delaware
17 Corporation,

18 Case No. '16CV1544 MMANLS

19 Plaintiff,

20 v.
21 SPECTRUM SOLUTIONS L.L.C., a Utah
22 Limited Liability Company, and
23 SPECTRUM DNA, a Utah Limited
24 Liability Company,

25 Defendants.

26 **COMPLAINT FOR PATENT
27 INFRINGEMENT**

28 **JURY TRIAL DEMANDED**

29 Plaintiff DNA Genotek Inc. ("DNA Genotek"), by its attorneys, for its
30 Complaint, alleges as follows:

31 1. This is an action for patent infringement arising under the patent laws
32 of the United States, Title 35, United States Code, involving United States Patent
33 No. 9,207,164 B2 ("the '164 patent") (attached as Exhibit A hereto).

34 **PARTIES**

35 2. Plaintiff DNA Genotek is a Canadian corporation with its principal
36 place of business in Kanata, Ontario. DNA Genotek is a wholly-owned subsidiary

of OraSure Technologies, Inc., a Delaware corporation with its principal place of business in Bethlehem, Pennsylvania.

3. Upon information and belief, Spectrum Solutions L.L.C. is a Utah limited liability companies with its principal place of business in Draper, Utah. Upon information and belief, Spectrum DNA is a division of Spectrum Solutions L.L.C. (collectively “Spectrum”). Spectrum Solutions L.L.C. was formerly known as Spectrum Packaging, L.L.C.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, Section 1, et seq. of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Spectrum because it has purposefully availed itself of the privileges and benefits of the laws of the State of California. Upon information and belief, Spectrum, its agents, subsidiaries, employees, market products in California and ship products to California that infringe the '164 patent. Spectrum maintains at least two websites. It registered the domain name, www.spectrum-dna.com, on July 28, 2015. Spectrum also hired a marketing company that launched an additional website, through which Spectrum markets its DNA collection devices throughout the United States, including California. On information and belief, before July 28, 2015, Spectrum concealed its making, using, selling, offering for sale, or importing the Spectrum product from DNA Genotek and much of the public. Spectrum, its agents, subsidiaries, employees, and/or affiliates target customers with ties to California through at least one of their websites, which describes Spectrum as a company responding to a need "in the DNA space calling for an innovative saliva DNA collection device" and offering "an innovative device that is user friendly and produces excellent clinical results."

1 6. Upon information and belief, Spectrum manufactures at least two
2 DNA saliva collection devices that infringe the '164 patent. Infringing products
3 include Spectrum Model No. SS-SAL-1 and ACOMD-0100. Upon information and
4 belief, Defendant Spectrum DNA makes, sells, offers for sale, and imports DNA
5 saliva collection devices that infringe the '164 patent (the "Spectrum Product").
6 Upon information and belief, Spectrum assembles and sells DNA saliva collection
7 devices that are shipped in interstate commerce, including to California, and that
8 infringe the '164 patent.

9 7. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), and
10 1400(b).

FACTUAL BACKGROUND

12 8. DNA Genotek is a leading provider of products for biological sample
13 collection, including oral fluid sample collection and stabilization solutions for
14 molecular applications. DNA Genotek has revolutionized the nucleic acid (DNA
15 and RNA) collection market with products that provide substantial advantages over
16 traditional methods of biological sample collection. DNA Genotek's products
17 incorporate proprietary technology that is protected by a robust patent estate.

18 9. DNA Genotek developed and patented its proprietary saliva DNA
19 collection kits (“DNA Genotek Saliva Collection Products”). DNA Genotek sells
20 the DNA Genotek Saliva Collection Products to customers and distributors
21 worldwide, including in this district.

22 10. DNA Genotek is the owner by assignment of all right, title, and
23 interest in and to the '164 patent, which duly and legally issued to DNA Genotek,
24 as assignee of Rod Muir, Derek Kirkland, Ian Curry, Roy Sunstrum, Paul Lem, and
25 H. Chaim Birnboim, on December 8, 2015.

26 11. Spectrum registered the website www.spectrum-dna.com on July 28,
27 2015. On or about July 29, 2015, Spectrum's website became publicly accessible.

1 On July 30, 2015, DNA Genotek filed suit against Spectrum in the District of
2 Delaware, alleging the Spectrum infringes United States Patent No. 8,221,381 B2
3 (the '381 patent), entitled "Container System for Releasably Storing a Substance."
4 The '381 patent and the '164 patent are part of the same patent family.

5 12. Spectrum has been and is now infringing one or more claims of the
6 '164 patent.

7 13. Spectrum infringes the '164 patent, either literally or under the
8 doctrine of equivalents, by making, using, offering for sale, selling and/or
9 importing the Spectrum Product.

10 14. On information and belief, Spectrum has been aware of the '164 patent
11 at least as of December 2015. Spectrum has been aware of the patent application
12 leading to the '164 patent at least as early as July 2015.

13 15. Spectrum was aware of the '164 patent when engaging in these
14 knowing and purposeful activities and was aware that the making, using, selling, or
15 offering for sale of the Spectrum Product or services incorporating the Spectrum
16 Product constituted an act of infringement of the '164 patent.

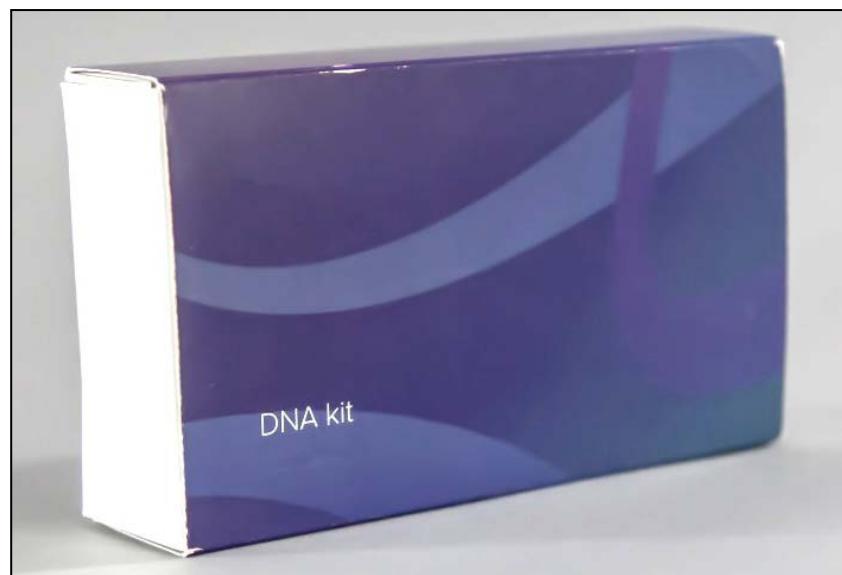
17 16. On its website, Spectrum claims to have "[c]omplete fulfillment
18 capabilities," including direct shipping to customers. Examples of products shipped
19 to the Southern District of California described on Spectrum's website include this
20 device:

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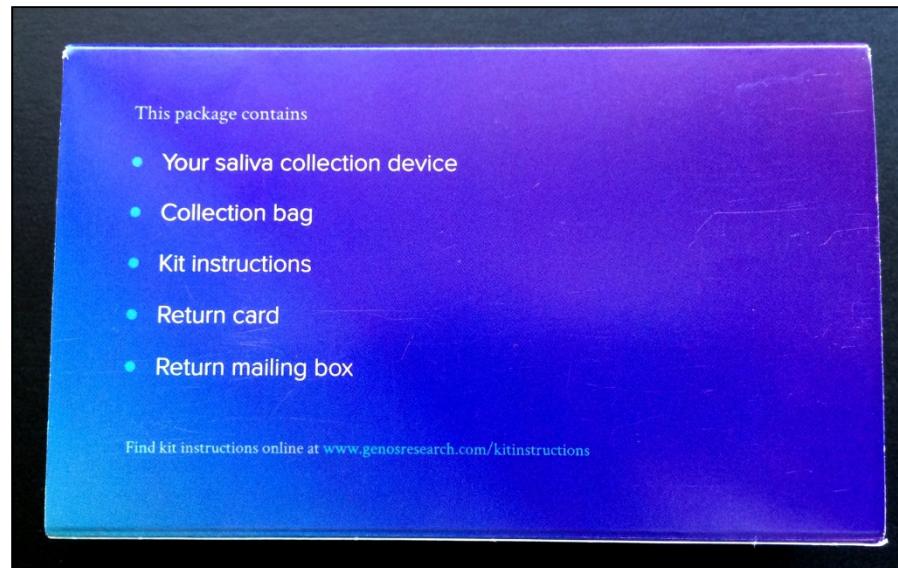
1 17. Upon information and belief, apart from its sale of the Spectrum
2 Product to individuals throughout the country, including California, Spectrum has
3 shipped and offered for sale the Spectrum Product to persons and/or entities who
4 maintain business operations and headquarters in the Southern District of
5 California.

6 18. Spectrum's website also includes a depiction of an alternatively-
7 labeled Spectrum Product that Spectrum offers for sale in California. This is the
8 picture from the website:



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18 <http://www.spectrum-dna.com/wp-content/uploads/2015/06/spectrumdna-kit-101-e1442898548499.jpg>.
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21 19. The following pictures depict an alternatively-labeled Spectrum
22 Product that Spectrum manufactured. Spectrum sold the below depicted product to
23 a customer in California. Spectrum shipped the product to a customer in California.
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COUNT I – INFRINGEMENT OF THE '164 PATENT

20. DNA Genotek restates and incorporates by reference paragraphs 1-19, as if fully set forth herein.

21. Spectrum has been and is now infringing one or more claims of the '164 patent, either literally or by the doctrine of equivalents.

22. Spectrum's infringing activities include making, using, offering for sale, selling, and/or importing into the United States products that infringe one or more claims of the '164 patent.

23. Spectrum's infringing activities violate 35 U.S.C. § 271.

24. As a result of Spectrum's infringement of the '164 patent, DNA Genotek has been and will be damaged, and DNA Genotek is entitled to be compensated for such damages pursuant to 35 U.S.C. § 284 in an amount to be determined at trial, but in no event less than a reasonable royalty.

25. Upon information and belief, Spectrum's infringement of the '164 patent will continue unless enjoined by this Court. As a result of Spectrum's infringement, DNA Genotek has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, DNA Genotek is entitled to injunctive relief against such infringement.

26. As a result of Spectrum's infringement, DNA Genotek has suffered and will continue to suffer significant damages.

PRAYER FOR RELIEF

WHEREFORE, DNA Genotek respectfully requests the following relief:

- (a) Entry of judgment that Spectrum has infringed the '164 patent;
- (b) Preliminary and permanent injunctive relief enjoining Spectrum, its
rs, agents, servants, employees, attorneys, and all other persons in active
rt or participation with them, from directly or indirectly infringing the '164
t;

DEMAND FOR JURY TRIAL

DNA Genotek hereby demands trial by jury on all issues so triable.

12 || Dated: June 20, 2016

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By: /s/ Brian M. Kramer
Brian M. Kramer

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DNA GENOTEK INC.